

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In Re:)	Chapter 11 Proceeding
)	
<i>MIGUEL S. RUIZ,</i>)	Case No. 09-5984
)	
)	
)	
Debtor(s).)	Hon. Susan Pierson Sonderby

NOTICE OF MOTION

To: See Attached Service List

PLEASE TAKE NOTICE that on **Tuesday, September 8, 2009**, at the hour of **10:00 A.M.**, I shall appear before the Honorable Susan Pierson Sonderby, Bankruptcy Judge, in Courtroom 642, Dirksen Federal Courthouse, 219 South Dearborn Street, Chicago, Illinois or before any other Bankruptcy Judge who may be sitting in her place and shall present and request an immediate hearing on a **MOTION TO CONVERT OR, IN THE ALTERNATIVE, DISMISS CHAPTER 11 CASE**, a copy of which is attached hereto and is herewith served upon you.

/S/ Roman L. Sukley
Roman L. Sukley, Attorney
OFFICE OF THE U.S. TRUSTEE
219 South Dearborn Room 873
Chicago, Illinois 60604
(312) 886-3324

CERTIFICATE OF SERVICE

I, Roman L. Sukley, an attorney, state that pursuant to Local Rule 9013-3(D) the above **NOTICE OF MOTION** and the appended **MOTION TO CONVERT OR, IN THE ALTERNATIVE, DISMISS CHAPTER 11 CASE** were filed on September 1, 2009, and served on all parties identified as Registrants on the service list below through the Court's Electronic Notice for Registrants and, as to all other parties on the service list below, I caused a copy to be sent via First Class Mail to the address(es) indicated on September 1, 2009.

/S/ Roman L. Sukley

Registrants Served Through the Court's Electronic Notice for Registrants:

James O Stola jstola@sbcglobal.net Attorney

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Parties Served via First Class Mail:

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Illinois Department of
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Retailers Occupation Tax
Springfield, Illinois 62796-0001

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Parkway Bank and Trust
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Treasurer of Cook County
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Chicago, IL 60602

Z Financial, 09 COTD 1382
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Internal Revenue Service
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In Re:)	Chapter 11 Proceeding
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**MOTION TO CONVERT OR, IN THE ALTERNATIVE,
DISMISS CHAPTER 11 CASE**

NOW COMES WILLIAM T. NEARY, the United States Trustee for the Northern District of Illinois (the "U.S. Trustee"), by his attorney, Roman L. Sukley, and pursuant to §1112 of the Bankruptcy Code, 11 U.S.C. §§101 *et seq.* (the "Code"), moves this Court for entry of an order converting the Chapter 11 case of Miguel S. Ruiz (the "Debtor") to a case under Chapter 7 of the Code, or, in the alternative, dismissing this case. In support of this Motion, the U.S. Trustee states as follows:

1. This is a core proceeding concerning the administration of this Estate pursuant to 28 U.S.C. §157(b)(2)(A) which this Court may hear and determine pursuant to IOP 15(A) and LR 40.3.1 of the United States District Court for the Northern District of Illinois.
2. The Debtor commenced this case on February 25, 2009, by filing his voluntary petition for relief under Chapter 11 of the Code, and has remained in possession and control of his assets pursuant to §§1107 and 1108 as debtor-in-possession

3. The Debtor has owned and operated Nova Construction from 1999 to present. The Debtor also indicates in the Statement of Financial Affairs, that this business was dissolved from 2005 to November, 2008.

4. The Debtor has failed to file with the Court and transmit to the U.S. Trustee monthly operating reports throughout the pendency of this case, in violation of §1107 of the Code and Fed.R.Bankr.P. 2015. As a result of the Debtor's failure to perform the duties imposed upon him by the Code, there is no current financial information available to the U.S. Trustee to allow the U.S. Trustee to continue to supervise the administration of this case as required by 28 U.S.C. §586.

5. Section 1106(a)(5) of the Code requires that a trustee shall, as soon as practicable, file a plan, or recommend conversion or dismissal of the case. The debtor-in-possession is required to perform this duty pursuant to §1107(a) of the Code. To date, no plan of reorganization or disclosure statement has been filed in this case. As a result, the Debtor has failed to comply with his duties under §1106(a)(5).

6. Finally, the Debtor has failed to make the quarterly statutory payments to the U.S. Trustee, in violation of 28 U.S.C. §1930. Failure to do so is grounds for conversion or dismissal of the Chapter 11 case.

7. The Debtor has sought to avail himself of the benefits conferred by the Code, but has failed to fulfill the duties required by the Code. Continuation of this case under Chapter 11 will only serve to delay and prejudice the creditors.

8. Based on the foregoing, the U.S. Trustee believes that due cause exists to convert this case to Chapter 7 of the Code, or, in the alternative, dismiss this case, pursuant to §1112(b) of the Code.

9. The U.S. Trustee also requests that notice be shortened to seven (7) days, given the delay already occasioned by this filing. The U.S. Trustee has served the Debtor, the taxing authorities, and all known creditors on 7 days notice.

WHEREFORE, the U.S. Trustee prays for an order shortening notice to that given, converting this case to Chapter 7 of the Code, or, in the alternative, dismissing this case, and for such other relief as this Court deems just.

RESPECTFULLY SUBMITTED:
WILLIAM T. NEARY
UNITED STATES TRUSTEE

DATED: 9/1/2009

/S/ Roman L. Sukley
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